Supreme Court, U.S.
FILED

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No.

In the

SUPREME COURT OF THE UNITED STATES

BRENDA E. TREMBLE,
Petitioner

v.

BULLOCH COUNTY SCHOOL DISTRICT
LYNN BATTEN
EUGENE NATSON, JR.
SHIRLEY COBB
BRENDA SHUMAN RILEY,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

I. Whether Eleventh Circuit Court of Appeals has entered a decision that conflicts with *National Railroad Passenger Corp. v. Morgan, 536* U.S. 101 *(2002)* on governing standards for district court to follow in consideration of summary judgment motion on hostile or abusive work environment claim, as to call for an exercise of this Court's supervisory power.

II. Whether Eleventh Circuit Court of Appeals has entered a decision that conflicts with *Board of Regents v. Roth, 408* U.S. *564* (1972) on governing standards for district court to follow in consideration of summary judgment on Fourteenth Amendment due process claim, as to call for an exercise of this Court's supervisory power.

IV. Whether court of appeals required to state reasoning for granting FRAP 38 sanctions when district court itself denied Rule 11 sanctions.

PARTIES TO THE PROCEEDING

Petitioner is Brenda E. Tremble.

Respondents are Bulloch County, Bulloch County School District, Lynn Batten, Eugene Natson, Jr., Shirley Cobb, and Brenda Shuman-Riley.

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OPINIONS BELOW

The Eleventh Circuit's Per Curiam opinion is unreported (Pet. App.2). The District Court's Final Order (Pet. App. 5) is unreported. The order of the Eleventh Circuit denying the petition for rehearing and for rehearing en banc (Pet. App. 4) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on November 24, 2004. A timely petition for rehearing and for rehearing en banc was denied on February 4, 2005. The jurisdiction of this court rests on 28 U.S.C. 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourteenth Amendment. Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. § 2000e-5(e)(1)

STATEMENT OF THE CASE

i. Facts

1. Brenda E. Tremble worked for Bulloch County School District ("BCSD") from 1994 until February 2001. First

Amended Complaint of Brenda Tremble ("Tremble Complaint"), Civil Docket ("CD") No. 10 at 2.[1]

2. In May of 1999, Tremble felt her job might be in jeopardy in the near future and for the first time went to Eugene Natson, Jr. ("Natson") to discuss her questions, concerns or complaints about her principal, Brenda Shuman-Riley, which concerns accumulated over the 1998-1999 school year, CD No. 98 at 2. Natson is also an African American male and, at all times relevant to this lawsuit, is the BCSD Assistant Superintendent for Personnel, CD No. 10 at 3 and the BCSD official designated to address questions, concerns or complaints relating to nondiscrimination policies and practices of BCSD, CD No. 111 at Exhibits 75, 76, and 77. Riley is a white female and the former principal at the Sallie Zetterower Elementary School, CD No. 10 at 3.

3. During the pre-planning period for the school year 1998-1999, Tremble was caught by surprise when Riley, the new principal, called her into office and after Tremble answered Riley's questions about instructional materials, Riley suddenly appointed Tremble as the Grade Representative for the First Grade teachers, CD No. 98 at 2. Although Tremble was pleased to have the opportunity, she was concerned about the manner in which Riley made the appointment without giving her a choice, CD No. 98 at 2.

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[1] Whenever an affidavit or deposition or other documentary evidence is referenced, it refers to affidavit or deposition or documentary evidence filed in the District Court in Opposition to defendants-appellees' Motion for Summary Judgment. The initial numbers refer to the Civil Docket. Page numbers are to the actual pages in the document, except where document included in the Petition Appendix the reference is to Appendix page number.

During the first visit with Natson, Tremble discussed this lack of choice with him.

4. During this same preplanning period, Riley called a meeting with the people that had gone to the Reading First Training; Riley told them that they would be the Reading First committee, and passed out a prepared committee list showing Tremble as the chairperson, and suddenly, Tremble was totally responsible for the Reading First program, a new project for the school, CD No. 98 at 2, 3, 10, 11, 12, 13, 14. Although Tremble saw this appointment as an opportunity to display more of her capability, she felt she was being intentionally overburdened and did not want this to become a pattern where she would always be saddled with what she thought was part of the Principal's job being shifted to her unfairly, CD No. 98 at 3. Tremble discussed this concern with Natson at the first meeting. Riley had instructed Tremble attend the first BCSD Reading First meeting of project directors; at the meeting Tremble observed that all the other project directors were principals; and upon returning to the school, Tremble reported this information to Riley so Riley could pull her from that major position, but instead, Riley instructed her to continue as the Reading First chairperson, and Tremble discussed this concern with Natson, CD No. 98 at 3, 12, 13.

5. Tremble worked very hard to successfully implement all aspects of the Reading First program; when it came time for the State of Georgia Reading Program Monitor to visit the school and review progress, Tremble was excited about her success and looking forward to meeting the Monitor; Riley asked Tremble to prepare her for the Monitor's visit, which Tremble did; on the day of the Monitor's visit, Riley did not bring the Monitor to Tremble and told Tremble the Monitor came by her room during recess; one of Tremble's white coworker remarked to Tremble, "Looks like you got

all dressed up for nothing!" Tremble felt highly embarrassed, humiliated, and used by Riley, and Tremble discussed this concern with Natson at the first meeting, CD No. 98 at 4, 5, 15.

6. One day Tremble got permission to go over to another school to visit her goddaughter's teacher, Tracey Vickery, a white female who is married to the son of Natson's secretary; Tremble taught her goddaughter in the First Grade the previous school year; Tremble recalled having a congenial and productive meeting, no exchange of harsh words, insults, or any other negative language that would indicate hostility by either of them; Riley told Tremble that Vickery's husband said he was going to file harassment charges against hers and verbally reprimanded her; Tremble wanted to know from Natson during this first meeting whether harassment charges had been filed against her; and, at that time, he reassured her that there was no basis for anyone to file such a complaint. CD No. 98 at 5,6, 16, 17, 18.

7. Tremble was also concerned about a student disciplinary matter involving a racially mixed child who Riley instructed Tremble to deviate from the approved grade-level disciplinary plan when he misbehaved in the classroom; the student was seen on the playground during recess with a real-looking toy gun and Riley reprimanded Tremble when Tremble was not on duty during recess; the white paraprofessional who was on duty, Riley did not approach her at all; and Tremble discussed this concern with Natson during the first meeting. CD No. 98 at 6, 18, 19, 20.

8. Tremble also complained to Natson about Riley wanting her to present a summary report of the Reading First program at a faculty meeting, which required a lot of preparation, and after doing so, the very next day, Riley told

Tremble that Shirley Cobb, a white female and the Assistant Principal, who also had attended the Reading First training with Tremble, CD No. 98 at 7, 10, 11, 12.

9. During this first meeting in May of 1999, Tremble did not use the specific words to Natson that she felt she was being mistreated because of her race, but she felt he knew what she meant from the context of their entire conversation. CD No. 98 at 8. On two separate occasions, the first being at Natson's suggestion, Tremble contacted Donnie Simmons, an African American male and a local civil rights activist who later became a BCSD school board member, CD No. 98 at 8; Pet. App. at 38.

10. After Tremble explained all of the above concerns about Riley to Natson during their first meeting in May of 1999, he assured her that she had legitimate concerns, and that he wanted the three of them to meet in his office to discuss her concerns openly, but the meeting never took place; Natson changed his mind and agreed with Riley to allow Riley to talk to Tremble alone at the school; Natson did not consult with Tremble before making this agreement with Riley; CD No. 98 at 9; Tremble felt scared and unprotected, and the meeting with Riley did not go well: Tremble told Riley her concerns and Riley told her, "I can be warm and friendly with my family at home. I don't have [to] be warm and friendly with you at school"; Tremble felt Natson set her up to be a target. CD No. 98 at 8, 9, 27.

11. Conflicts increased in frequency. During school year 1999/2000 preplanning period, Riley stormed into Tremble's classroom, in the presence of paraprofessionals ('para-pros") and said in a rude manner, "You understand that we are sharing the para-pros!" Tremble was embarrassed; CD No. 98 at 28. Prior to this occasion, Tremble asked her personal friend Tara Kirkland, who is a student volunteer during

regular school year, to make a special trip to the school to help her get her classroom together for the new year; Riley would not have known in advance of Kirkland's arrival, as there was no sign-in sheet at this point for visitors; Riley removed Kirkland from her classroom. CD 98 No. 29. Tremble observed Riley appeared not to condone blacks working together in the classroom; about week after the Kirkland incident, Riley switched the para-pros around so that all the black teachers had white para-pros, but all white teachers did not have black para-pros; CD No. 98 at 30.

12. Riley used a variety of ways to undermine Tremble. Tremble earned her Master's Degree during Riley's administration; Tremble was the only black teacher to have earned a Master Degree, but Riley did not congratulate her in the same manner as she did in the past with the white teachers; when Riley acknowledged white teachers, she elaborated with such praise that the teachers beamed with pride and were further congratulated by rest of the faculty; for Tremble, instead of acknowledging the achievement, Riley merely emphasized her Master's project at a faculty meeting by saying it would be available for use in the resource room, but Riley failed to make it available and returned it to Tremble's mailbox, CD No. 98 at 31. It was after this occasion that Tremble ran into Natson at the Board of Education, on unrelated business, when Natson saw her and asked her how things were going; Tremble indicated to him that the work environment had not improved; Natson told Tremble that he could tell Riley was not going to respect him as her black administrator; CD No. 98 at 31.

13. Riley witnessed Cathy Deal, Tremble's new white para-pro, crying (Deal had recently returned from hysterectomy surgery and was very hormonal), and Deal told that she did not know if she was doing her job right; Riley called Tremble into her office to question her about Deal;

this was the first time Tremble was aware Deal felt she did not know what to do, but as far as Tremble was concerned, she felt Deal was doing a good job; Tremble had a notebook that stated what Deal needed to do each day; Tremble told Riley that if anyone should be crying it should be her because Deal defaced her wedding picture on her desk by putting "devil" horns on her head; Deal admitted to doing this and said it was a practical joke; subsequently Riley apparently called Natson who called the school for Tremble to stop by his office in reference to a comment that Riley made about Deal; Natson was told by Riley that Tremble had a problem with Deal when she didn't CD No. 98 at 33.

14. On another occasion, Deal noticed a student was eating sweets only for lunch; she informed Tremble who wrote a note to student's mother; the mother previously had asked Tremble to keep her abreast of any changes with her son due to his ADHD; studies show that diet may trigger adverse behavior in children. CD No. 111 [Ex 24 ADHD/Diet]; the mother overreacted to Tremble's note, wrote a lengthy letter to Riley, had her son's doctor to write a note; despite BCSD policy that instructs schools to monitor what students eat, Riley chastised Tremble because she mentioned the fact that Riley monitors the lunchroom. CD No. 98 at 33. Shirley Cobb, a white female and the Assistant Principal, testified that teachers should be concerned about students' eating habits, CD No. 101 at 57, and the teacher is expected to make an informal communication with the parent, such as sending a brief note, CD No. 101 at 58.

15. During school year 1999-2000, Tremble was called into the office with both principals; Riley explained to Tremble that she would be moving to second grade for coming school year 2000/2001; Tremble would now be located on same hall with Dr. Riley; while Tremble hoped things would get better, they did not; Tremble was not told